

CONTRACT DOCUMENTS
FOR
SUPPLEMENTAL TRANSPORTATION SERVICES



CB-1867

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PREPARED BY:
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SCOPE OF PROJECT

1. Purpose

The City of Abilene, referred to as the Procuring Agency, is requesting proposals in response to this Request for Proposals (RFP) for supplemental transportation to the existing complimentary ADA Paratransit Services program. The City of Abilene intends to award multiple Contracts to qualified Proposers.

2. Scope

The successful Proposer (Vendor) will furnish the Procuring Agency with supplemental transportation of CityLink's ADA paratransit services for the duration of one year. The contract for these services will include four (4) additional one (1)-year options in accordance with the cost proposal. Transportation services will be compliant with state and federal guidelines as prescribed in US CFR 49 and will remain compliant during the lifetime of the contract.

Vendor will transport CityLink-approved customers based on trip assignments from CityLink Dispatch at the cost per trip as proposed by the Vendor and included in the resulting contract. Vendor shall pick up and drop off customers at the address provided by CityLink Dispatch at the time of trip assignment. The Vendor shall not transport any customer other than CityLink assigned customers at any one time. CityLink will pay the per trip fee only for those trips assigned by CityLink Dispatch. The Vendor shall submit a monthly invoice to CityLink that includes each trip's date and time of pick up.

Vendor's drivers shall assist customers getting in and out of the vehicle to the extent necessary and may assist the customer from and to the closest entrance without leaving sight of the vehicle. Customers that require a wheelchair will not be assigned to the Vendor, so Vendor is not required to provide a wheelchair accessible vehicle. However, Vendor may propose to provide that service in its proposal.

Vendor shall be available to accept trips Monday through Friday from 7:30 am to 6:30 pm and Monday through Saturday 6:30 pm to 12:00 am. Vendor will not provide service during CityLink observed holidays or when CityLink ceases regular operations due to weather.

Vendor may propose trip assignments through a mobile app.

REQUEST FOR PROPOSALS

The City of Abilene will receive sealed, written proposals in the Purchasing Department at City Hall, 555 Walnut, Suite 201-A, Abilene, Texas, until **2:00 pm on September 26th**, for:

Supplemental Transportation Services

A Pre-Proposal Conference will be held in the Lower Level Conference Room of the Airport Terminal, 2933 Airport Road at 1:30 pm on September 19th, to discuss and answer any questions prospective proposers may have concerning specifics of this project. The Vendor or designated representative should attend to get as much information about this proposed opportunity as possible. The Pre-Proposal Conference is not mandatory, but attendance is highly encouraged.

If any person submitting a Proposal is in doubt as to the true meaning of any part of this RFP, or if additional information is required, the City of Abilene will receive written questions in the Purchasing Department at City Hall until 4:00 pm on September 21st.

Written responses to questions will be posted at the City of Abilene prior to 5:00 pm on September 24th.

The City will return unopened any proposal received after proposal closing time.

Proposal Documents, including specifications, are on file and may be examined without charge in the Purchasing Department at Abilene City Hall, 555 Walnut, Suite 201-A, Abilene, Texas.

The City will award the contract to the responsive and responsible proposer that scores the highest based scoring/evaluation. The City reserves the right to reject any or all Proposals and waive any formalities and technicalities.

(Signature)

MELISSA DENSON

Purchasing Administrator
City of Abilene

Date: _____

DEFINITIONS

Wherever used in the Contract Documents, these terms have the meanings indicated. The singular includes the plural.

Addendum – Written or graphic instruments issued before the Contract is executed to modify, interpret, clarify or correct the Contract Documents.

Change Order – City’s written authorization to the Contractor to add, delete or revise Contract work, or adjusting the contract price or contract time.

City or Owner – Abilene, Texas.

Contract Documents – Collectively, the Request for Proposals, Instructions to Proposers, Proposal, Contract, General Conditions, Supplementary Conditions, Special Conditions, Notice of Award, Notice to Proceed, Change Orders, and all Addenda.

Contract Price – Flat Rate per trip to be charged by Proposers.

Contract Time – The number of working days in which the Contractor must deliver the product.

Contractor – The person, firm or corporation with whom the City executes a Contract.

Contractual Relationships – No contractual relationship will be recognized under the Contract other than the contractual relationship between the City of Abilene and the Prime Contractor.

Notice of Award – Written notice from City to the successful Proposer accepting the Proposal.

Notice to Proceed – The written notice from City to the Contractor authorizing the Contractor to begin work.

Proposal – Proposer’s written offer on City’s form stating prices for the procurement.

Proposer – Any person, firm or corporation submitting a Proposal.

Special Conditions – Insurance requirements and prevailing wage rates, which may apply to this purchase.

Subcontractor – An individual, firm, or corporation directly contracting with the Contractor or any other Subcontractor to perform part of the work.

Supplementary Conditions – Modifications, additions or deletions to the General Conditions to meet specific project conditions.

TxDOT – Texas Department of Transportation

Working Day – Any day not including Sundays or any legal holidays, in which conditions not under the control of the Contractor will permit work for a continuous period of not less than seven (7) hours.

Written Notice – Information relating to the Project which is served on another party when posted by certified or registered mail to the party at the last given address or delivered in person to the party or authorized representative on the work.

INSTRUCTIONS TO PROPOSERS

1. Introduction

The City of Abilene is seeking proposals, under the negotiated method of procurement, from qualified proposers (firms) to provide services for the Contract. The City of Abilene invites your firm to submit a proposal in response to this Request entitled "Supplemental Transportation Services", as generally described in Scope of Services.

Enclosed is a Request for Proposal (RFP) and a proposed contract. The proposed contract is made available so you may be aware of the contemplated terms and conditions of any resulting contract. If you take exception to the solicitation (including the terms and conditions of the proposed contract), please elaborate in your proposal.

2. Defined Terms

The definitions in the General Conditions of the Agreement apply to these Instructions to Proposers.

3. Contractor Qualifications/ Eligibility for Award

Each Proposer shall complete, and submit the applicable forms contained in these documents. If the Proposer is a joint venture, each joint venture shall prepare and submit a separate form. Failure to complete and return the Proposer's Questionnaire may be grounds for rejection of the proposal.

In order for a Proposer to be eligible to be awarded the contract, his proposal must be responsive to the Request for Proposal and the City of Abilene must be able to determine that the Proposer is responsible to perform the contract satisfactorily.

Responsive proposals are those complying in all material aspects of the solicitation. Proposals which do not clearly demonstrate that they comply with all the terms and conditions of this solicitation including small business participation will be rejected as nonresponsive.

Responsible Proposers as a minimum must

- Be a current permitted Taxicab Company in the City of Abilene or a licensed Transportation Network Company in the State of Texas, or a registered business entity within the State of Texas.
- Be able to comply with the required performance schedule, taking into consideration current commitments.
- Have or be able to obtain a sufficient number of clean, quality vehicles required to perform the services.
- Maintain vehicles in proper condition and administer the required services;
- Have a satisfactory record of business integrity and ethics;
- Have a satisfactory record of current and/or past performance on behalf of the City of Abilene and/or other businesses, including the areas of scheduling, record keeping reporting, qualified personnel/supervision; skilled workforce, safety, training, quality and dependability of equipment, materials and workmanship, and timely performance;
- Certify that it is not on the U.S. General Services Administration's "List of Parties Excluded from Federal Procurement or Non-procurement Programs". Signing and submitting the proposal is so certifying;
- Be otherwise qualified and eligible to receive an award under applicable laws and regulations.
- Provide proof of insurance as required for this contract or proof that proposer would be issued

insurance based on the City of Abilene's requirements.

- Provide information demonstrating safety programs the Contractor has implemented on other contracts.
- A Proposer may be requested to submit written evidence verifying that they meet the minimum criteria necessary to be determined a responsible Proposer. Refusal to provide requested information will result in the Proposer being declared nonresponsive, and the proposal will be rejected.

4. Examination of Contract Documents

By proposing, each Proposer incontrovertibly represents that Proposer had:

- examined the Proposal Documents thoroughly;
- become familiar with federal, state and local laws, ordinances, rules and regulations affecting the procurement; and
- carefully correlated observation with the requirements of the Contract Documents.

5. Interpretations

Proposer may send written questions to the Purchasing Manager about the meaning or intent of the Proposal Documents. The Purchasing Manager will reply by Addendum sent to all proposers receiving the original RFP and will become part of the RFP package having the same binding effect as provisions of the original RFP. The Purchasing Manager may not answer written requests received after the submittal date.

6. Proposal Contents

There are two parts of this Request for Proposals that must be completed: The technical and pricing proposals as described below. Both documents must be submitted by the date and time established for receipt of proposals for a proposal to be considered by the City of Abilene. Proposals should be submitted in three-ring binders. Multiple binders are acceptable.

Technical Proposal: Each technical proposal shall clearly demonstrate that the proposer understands the City of Abilene's requirements as stated herein. Proposals must be submitted in the format prescribed below and include at a minimum, the following information:

Executive Summary and Start Up Plan

Price Proposal (Price Schedule) – Each Proposer's cost proposal shall be submitted with the technical proposal.

7. Preparation of Proposal

A proposal shall be submitted on the forms furnished, or copies thereof, shall be completed in ink, computer or by typewriter and shall be manually signed. If erasures or other changes appear on the forms, each erasure or change shall be initialed by the person signing the proposal. Telegraphic, facsimile, or emailed proposals are not authorized and will not be considered.

If a proposal is from an individual, sole proprietorship, or a proposer operating under a trade name, the proposal shall be signed by that individual.

A proposal by a partnership shall be executed in the partnership name and signed by a partner; the official address of the partnership shall be shown below the signature.

A proposal by a corporation shall be executed in the corporate name by the president or a vice-president (or other corporate officer accompanied by evidence of authority to sign) and the corporate seal shall be affixed and attested by the corporate secretary or assistant secretary.

A proposal submitted by a joint venture shall list the name of all joint ventures and the mailing address of each and shall be executed by all joint ventures in the same manner as if they were individually submitting proposals. The signature portion of the Proposal Form shall be altered as appropriate for execution by the joint venture and all joint ventures.

All names shall be typed or printed below the signature.

The proposal shall contain an acknowledgment of receipt of all amendments.

Communications regarding this solicitation are to be directed to the address and to the attention of the person shown on the Request for Proposal.

If a proposer considers any of the terms or conditions of the solicitation (including the proposed Contract) to be unacceptable, the proposer should identify those which are so, and cite reasons therefore in the supplement to its cover letter. Any such exceptions or revisions, and the reasons therefore, will be considered as factors in evaluation of the proposal.

8. Addenda

Any modification to the RFP requirements will be by written Addenda only. Receipt and review of Addenda by each proposer must be acknowledged on the Addendum Page. All addenda must be signed and returned with each proposer's proposal or proposals will be found nonresponsive.

9. Proposal Submission

Proposals must be submitted in a sealed container, marked with the Project title and name and address of the Proposer and accompanied by all other required documents. The City will return late Proposals unopened, and will not consider them.

10. Proposal Modification and Withdrawal

Proposals may be modified or withdrawn by a document executed as a Proposal must be executed and delivered to the Purchasing Administrator's Office before Proposals are due.

11. Proposals Remain Open

All Proposals remain open for 90 days. The City reserves the right to release any Proposal early.

12. Eligibility for Award

In order to be eligible for award, proposers must be responsible and then proposers must be responsive.

- Responsible proposers are those prospective Proposers or firms who, at a minimum, must:
 - Certify that they are not on the U.S. Comptroller General's list of ineligible Proposers or firms.
 - Have adequate financial resources, as required during performance of the Proposal.
 - Are able to comply with the proposed delivery schedule, taking into consideration all existing business commitments.
 - Have a satisfactory record of past performance with governmental agencies.
 - Are otherwise qualified and eligible to receive an award under applicable laws and regulations.
- Responsive proposals are those complying in all material aspects of the solicitation, both as to the method and timeliness of submission and as to the substance of the resulting Purchase Order. Proposals that do not comply with all the terms and conditions of the solicitation may be rejected as non-responsive.

13. Evaluation of Proposals

The Evaluation Committee, which includes City of Abilene staff will evaluate the proposals in accordance with the criteria set forth below. The total evaluation score, as separately determined by each team member, will be added and each proposer will be ranked in numerical sequence, from the highest to the lowest score. The Evaluation Committee may elect to interview proposers in order to clarify their proposals and/or for the Proposers to make oral presentations. The Evaluation Committee will select those proposals that are considered to be the most advantageous to the City of Abilene and recommend the proposals to the Abilene City Council. The City of Abilene expects all offerors to fully cooperate with its evaluation process.

14. Evaluation Criteria

Proposals will be evaluated using the following selection criteria:

Evaluation Methodology

The range of points in each of the aforementioned areas is as follows:

	Points Range
Ability to perform the Scope of the contract	0-10 points
Qualifications/ Experience	0-5 points
Cost Proposal	0-10 points
Quantity and Models of Vehicles to be Used for this Contract	0-10 points
Ability to perform Service from 7:30 am to 6:30 pm Monday thru Friday	0-10 points
Ability to perform Service from 6:30 pm to 12:00 am Monday thru Saturday	0-10 points
Customer Service Focus	0-10 points
Wheelchair Accessible Vehicle (not required)	Yes/No
Mobile App Available (not required)	Yes/No

15. Award of Contract

The City has the right to reject any and all Proposals, to waive any and all formalities, and to reject all nonconforming or conditional Proposals or counter Proposals.

In evaluating Proposals, the city considers compliance with prescribed requirements and price. The City may investigate the responsibility and financial ability of the Proposers. The City has the right to reject any Proposal whose evaluation does not satisfy City requirements.

16. No Indebtedness

Contractor agrees that no payments owed by him of any nature whatsoever to the City.

The City will not knowingly award contracts for goods or services to any Proposer in arrears to the City for any debt, claim, demand, or account whatsoever, including taxes, penalty or interest. Contractor is responsible for ensuring that no indebtedness exists.

Section 130 of the City Charter authorizes the City to counterclaim and offset any debt, claim, demand or account owed by the City to any person, firm or corporation in arrears to the City for any debt, claim, demand or account of any nature whatsoever, including taxes, penalty or interest.

If a contract is awarded, the City will make the award to the responsive and responsible proposer that scores the highest scoring/evaluation within 180 days after Proposals are received. City may mutually agree with a Proposer to extend the time for the award.

The City will notify the successful Proposer by a written Notice of Award.

17. Execution of Contract

The accepted Proposers, within 15 days after Notice of Award is sent, must execute the required Contract Agreement using the City's forms.

The City will issue a Notice to Proceed authorizing the Contractors to begin work only after the Contract is executed and all required supporting documents are received.

18. Sales Tax

The City qualifies as an exempt agency, under the Texas Limited Sale, Excise and Use Tax Act (the "Tax Act"), and is not subject to any State or City sales taxes on materials incorporated into the project. The City will provide an exemption certificate to the Contractor. The Contractor must have a sales tax permit issued by the Comptroller of Public Accounts and must issue a resale certificate complying with the Tax Act, as amended, when purchasing incorporated materials. The Contractor is responsible for any sales taxes applicable to equipment purchases, rentals, leases, consumable supplies which are not incorporated into the project, tangible personal property purchased for use in the performance of this contract and not completely consumed, or other taxable services used to perform this contract, or other taxes required by law in connection with this Project.

19. Taxes, Licenses, Laws, and Certificate Requirements

Contractor shall maintain and be liable for all taxes, fees, licenses, and costs as may be required by federal, state, and local laws, rules, and regulations for the conduct of business by Contractor and any subcontractor or firms and shall secure and at all times maintain any and all such valid licenses and permits as may be required to provide the services or supplies under this Contract. If for any reason, Contractor's required licenses or certificates are terminated, suspended, revoked, lapsed, or in any manner modified from their status at the time this Contract becomes effective, Contractor shall immediately notify the City of Abilene in writing of such condition.

Contractor will give all notices and comply with all federal, state, local laws, ordinances, rules, regulations, standards, and orders of any public authority bearing on the performance of the Contract, including, but not limited to, the laws referred to in these General Provisions of the Contract and the other Contract Documents. If the Contract Documents are at variance therewith in any respect, any necessary changes shall be adjusted by appropriate modification. Omission of any applicable laws, ordinances, rules, regulations, standards or orders by the City of Abilene in the Contract Documents shall be construed as an oversight and shall not relieve the Contractor or firm from his obligations to meet such fully and completely. Upon request, Contractor shall furnish to the City of Abilene certificates of compliance with all such laws, orders and regulations. Contractor shall be responsible for obtaining all necessary permits and licenses required for performance under the Contract.

Applicable provisions of all federal, state, and local laws, and of all ordinances, rules, and regulations shall govern any and all claims and disputes which may arise between person(s) submitting a Proposal response hereto and the City of Abilene, by and through its officers, employees and authorized representatives, or any other persons, natural and otherwise, and lack of knowledge by any Proposer shall not constitute a cognizable defense against the legal effect thereof.

20. Financial Assistance

This agreement is subject to financial assistance contracts between the City of Abilene and the Federal Transit Administration.

21. Postponement or Cancellation of Request for Proposals

The City of Abilene reserves the right to cancel the RFP at any time or change the date and time for submitting Proposals by announcing same prior to the date and time established for Proposal submittal through the City of Abilene website.

22. Errors and Administrative Corrections

The City of Abilene will not be responsible for any errors in Proposals. The City of Abilene reserves the right to allow corrections or amendments to be made that are due to minor administrative errors or irregularities,

such as errors in typing, transposition or similar administrative errors.

23. Contract Changes

Any proposed change in the contract will be submitted to the City of Abilene, for prior written approval and the City of Abilene will make the change, by a Change Order. The City of Abilene may, at any time by written order, and without notice to the sureties, make changes within the general scope of this contract. No oral order or conduct by the City of Abilene will constitute a Change Order unless confirmed in writing by the City of Abilene.

If any such change causes an increase or decrease in the cost or the time required for the performance of any part of the work under this Contract, an equitable adjustment will be made, at the sole discretion of the City of Abilene, in the Contract price, or delivery schedule, or both, and the Contract will be modified in writing accordingly. Every Change Order may require a cost/price analysis to determine the reasonableness of the proposed change.

Any claim by Contactor for adjustment under this clause must be asserted within fourteen (14) calendar days from the date of receipt by Contractor of the notification of change. The request for equitable adjustment must be in writing and state the general nature and monetary extent of the claim. The City of Abilene may require additional supporting documents and cost or price analysis to determine the validity of the claim.

No claim by Contactor for an equitable adjustment hereunder will be allowed if asserted after final payment under this Contract. No claim will be allowed for any costs incurred more than twenty (20) calendar days before Contractor gives written notice, as required in this section.

24. Change Order Procedure

- Proposer or Firm Changes: Any proposed change in this Contract shall be submitted to the CityLink General Manager on behalf of City of Abilene, for approval.
- Written Change Orders: Oral change orders are not permitted. No change in this Contract shall be made unless the City of Abilene, gives prior written approval therefore. Contractor shall be liable for all costs resulting from, and/or for satisfactorily correcting any specification change not properly ordered by written modification to the Contract and signed by the City of Abilene.
- Change Order Procedure: Within 15 days after receipt of the written request to modify the Contract, the Contractor shall submit to City of Abilene a detailed price and schedule Proposal for the work to be performed. This Proposal shall be accepted or modified by negotiations between the Contractor and the City of Abilene. At that time, a detailed modification shall be executed in writing by both parties. Disagreements that cannot be resolved within negotiations shall be resolved in accordance with Disputes, Claims and Appeals. Regardless of any disputes, the Contractor shall proceed with the work ordered.
- Price Adjustment for Regulatory Changes: If price adjustment is indicated, either upward or downward, it shall be negotiated between the City of Abilene and Contractor for changes that are mandatory as a result of legislation or regulations that are promulgated and become effective between the date of Proposal opening and the date of contract performance. Such price adjustment may be modified where required.

25. Proposal Submission

Proposer shall submit a total of one original and five hard copies plus one electronic.pdf copy on a flash drive of their Proposal in a sealed package with the words clearly marked "Supplemental Transportation Services" and the time and date Proposals are due.

26. Cost of Proposals

The City of Abilene is not liable for any costs incurred by Proposers in the preparation, presentation, or testing of Proposals submitted in response to this RFP.

This RFP does not commit the City of Abilene to award a Contract, to pay any costs incurred in the preparation of Proposals drafted in response to this request. The City of Abilene does retain the right to modify or cancel in part or in it's entirely this RFP if it is in the best interest of the City of Abilene to do so.

27. Protest Procedures

If in the course of a procurement action, an interested party has reason to believe that:

- Full and open competition does not exist, or;
- City of Abilene solicitation documents contain restrictive specifications; such party may file a protest in accordance with the procedures described herein.

In addition to the above, protests may be filed based upon the following factual or alleged circumstances:

- Violation of federal, state or local law or regulation
- Sole source procurements
- Award made to other than the lowest Proposer additional criteria not so published
- Failure to adhere to evaluation criteria set forth in solicitation documents, or use of additional criteria not so published
- Changes to evaluation criteria made during the evaluation process
- Local or DBE preferences
- Solicitation advertising violating applicable laws or regulations
- Conduct of negotiations after Proposal opening in sealed Proposal procurements
- Provision of inadequate time to prepare a Proposal or proposal

Protests of City of Abilene procurements filed by interested parties shall be considered in two general categories:

- Those filed prior to award
- Protests occurring after award has been made

Pre-Award Protests

City of Abilene will use the following procedures for all protests filed prior to award:

- Protests must be filed no later than ten (10) days prior to the date established in the solicitation for receipt of Proposals or proposals.
- Protests must be submitted in writing to the attention of the Purchasing Manager. The written protests shall include:
 - The name, address, and telephone number of the protestor;
 - The City of Abilene solicitation number and project description;
 - A statement of the grounds for the protest, accompanied by all supporting documentation. All grounds must be fully supported with documentation;
 - The resolution sought from City of Abilene by the protestor.
- The Purchasing Manager shall receive the protest and issue written notification to the protestor within five days that the matter is undergoing review. Notice of the protest shall be given in writing to all known recipients of solicitation documents.
- Procurement activity shall be suspended pending resolution of a protest unless one or more of the

following conditions exists:

- The goods or services being procured are urgently required;
 - Delivery or performance will be unduly delayed by failure to make an award promptly;
 - Failure to make prompt award will result in termination of a critical City of Abilene function or activity or otherwise cause undue harm to City of Abilene or;
 - The Purchasing Manager prepares a written finding that such protest is clearly frivolous in nature, and therefore does not warrant a disruption of the procurement process.
- The Purchasing Manager shall be responsible for making a written determination that circumstances require City of Abilene to proceed with procurement during a pending protest. Unless such determination is made, the procurement shall be suspended pending resolution of the protest. The Purchasing Manager shall notify all parties known to have received solicitation documents in writing of such suspension.
 - All protests received within the specified period shall be examined by the Purchasing Manager who shall evaluate the matter and, within five (5) days, forward a recommendation concerning its disposition to the City Manager. No additional material shall be accepted for consideration during the protest review unless specifically requested in writing by City of Abilene.
 - The City Manager may attempt to resolve the protest with the affected party.
 - The decision of the City Manager is final.

A protestor may file a protest with FTA only after exhausting all administrative remedies provided by the City of Abilene, on the basis described in FTA Circular 4220.1F, Chapter VII, Sec. 1.b.

28. Public Disclosure of Proposal

The City of Abilene is subject to the Texas Freedom of Information Act. Therefore, the contents of this RFP and the Proposer's Proposal submitted in response to this RFP shall be considered public documents and are subject to the Texas FOIA statutes. As such, all Proposals submitted to the City of Abilene will be available for inspection and copying by the public after the selection process has been concluded. There are, however, various items that may be exempt under public disclosure laws. If any proprietary, privileged, or confidential information or data is included in the Proposer's proposal each page that contains this information or data should be marked as such (e.g., "Proprietary," "Confidential," "Business Secret," or "Competition Sensitive") in order to indicate your claims to an exemption provided in the Texas FOIA. It is the City of Abilene's sole right and responsibility, however, to make the determination whether these items should be sent to the Texas Attorney General for a determination.

29. Conflicts of Interest

The Contractor by submitting a Proposal to the City of Abilene to perform or provide work, services, or materials, has thereby covenanted that it has no direct or indirect pecuniary or proprietary interest, and that it shall not acquire any interest, which conflicts in any manner or degree with the work, services, or materials required to be performed and/or provided under this Contract and that it shall not employ any person or agent having any such interest. In the event that Contractor or its agents, employees or representatives hereafter acquires such a conflict of interest, it shall immediately disclose such interest to the City of Abilene and take action immediately to eliminate the conflict or to withdraw from this Contract, as the City of Abilene may require. Conditional to signing an awarded contract a required State of Texas for 1295 will be completed.

30. Contingent Fees and Gratuities

The Contractor by submitting a Proposal to the City of Abilene to perform or provide work, services, or

materials, has thereby covenanted:

No person or selling agency except bona fide employees or designated agents or representatives of Contractor has been or will be employed or retained to solicit or secure this Contract with an agreement or understanding that a commission, percentage, brokerage, or contingent fee would be paid; and

No gratuities, in the form of entertainment, gifts, or otherwise, were offered or given by Contractor or any of its agents, employees, or representatives, to any official, member or employee of the City of Abilene or other governmental agency with a view toward securing this Contract or securing favorable treatment with respect to the awarding or amending, or the making of any determination with respect to the performance of this Contract.

31. Quality Assurance

The Contractor shall provide and maintain a quality control and service inspection system program acceptable to the City of Abilene for vehicles and equipment in conjunction with the services to be performed hereunder.

- The City of Abilene has the right to inspect and test all services called for by the Contract, to the extent practicable at all times and places during the term of the Contract. The City of Abilene shall perform inspections and tests in a manner that will not unduly delay the services.
- If any services performed hereunder or equipment provided hereunder are not in conformity with the requirements of this Contract, the City of Abilene shall have the right to require the Contractor to immediately take all necessary steps to ensure future performance of the services in conformity with the requirements of the Contract.
- If the Contractor fails to take the necessary action to ensure future performance in conformity with Contract requirements, the City of Abilene may:
 - terminate the Contract for default as provided in the Contract Article entitled "Termination for Default".
- When the defects in services cannot be corrected by performance, the City of Abilene may:
 - require the Contractor to take necessary action to ensure that future performance conforms to Contract requirements; and
- City of Abilene inspections and tests are for the sole benefit of the City of Abilene and do not:
 - relieve the Contractor of responsibility for providing adequate quality control measures;
 - relieve the Contractor of responsibility for damage to or loss of the material/service before acceptance;
 - constitute or imply acceptance; or
 - affect the continuing rights of the City of Abilene after acceptance of the complete work.

32. Changed Requirements

New federal, state, and local laws, regulations, ordinances, rules, policies, and administrative practices may be established after the date this Contract is established and may apply to this Contract. To achieve compliance with changing requirements, Proposer or firm agrees to accept all changed requirements that apply to this Contract and require subcontractor or firms to comply with revised requirements as well.

Changed requirements will be implemented through Change Order Procedure.

33. Instructions by Unauthorized Third Persons

Any instructions, written or oral, given to Contractor by someone other than the City of Abilene or authorized representatives, which are considered to be a change in the Contract, will not be considered as an authorized Contract change. Any action on the part of Contractor taken in compliance with such instructions will not be grounds for subsequent payment or other consideration in compliance with the unauthorized change.

34. Cost or Price Analysis

The City of Abilene reserves the right to conduct a cost or price analysis for any purchase. Contract change orders or modifications will be subject to a cost analysis.

35. Assignment

Contractor shall not assign any interest, obligation, or benefit under or in this Contract or transfer any interest in the same, whether by assignment or notation, without the prior written consent of the City of Abilene. If an assignment is approved, this Contract shall be binding upon and inure to the benefit of the successors of Contractor. This provision shall not prevent Contractor from pledging any proceeds from this Contract as security to a lender. An assignment may be conditioned upon the posting of bonds, securities and the like by the assignee and the assignee must assume the written Contract and be responsible for the obligations and liabilities of Contractor, known and unknown, under this Contract and applicable law.

The City of Abilene, may assign its rights and obligations under the Contract to any successor to the rights and functions of the City of Abilene or to any governmental agency to the extent required by applicable laws or governmental regulations, or to the extent the City of Abilene deems necessary or advisable under the circumstances.

36. Use of the City of Abilene or CityLink's Name in Proposer or firm Advertising or Public Relations

The City of Abilene reserves the right to review and approve all the City of Abilene related copy prior to publication. Contractor will not allow the City of Abilene related copy to be published in Contractor's advertisements or public relations programs until submitting City of Abilene related copy and receiving prior written approval from the City of Abilene. Contractor will agree that published information on the City of Abilene/CityLink or its program will be factual, and in no way imply that the City of Abilene endorses Contractor's service or product.

37. Drug and Alcohol: Proposers must have the collection and testing sites for drug and alcohol programs approved before receipt of proposals. Proposer will have the ability to utilize the City of Abilene's contractors if desired. If proposer's drug and alcohol testing contractor is not satisfactory to the City of Abilene, then the City of Abilene will require that the contractor be used for drug and alcohol testing.

The City of Abilene has attached a copy of its Drug and Alcohol Policy Program for proposers to review and compare to proposer company policy.

The City of Abilene has a zero tolerance and requires the same from contractors and its subcontractors awarded this contract.

38. Insurance: Each prospective proposer is cautioned to review the Insurance requirements of this Solicitation.

FEDERAL TRANSIT ADMINISTRATION (FTA) REQUIREMENTS

Accordingly, by signing the Proposal and later on the Notice to Proceed, the Proposer agrees to and certifies to comply with the following FTA regulations.

1. No Federal Government Obligations to Third Parties

Absent the Federal Government's express written consent, the Federal Government shall not be subject to any obligations or liabilities to any sub recipient, any third party Proposer or firm, or any person not a party to the Grant Agreement or Cooperative Agreement in connection with the performance of the Project. Notwithstanding that the Federal Government may have concurred in or approved any solicitation, sub agreement, or third party contract, the Federal Government has no obligations or liabilities to any party, including any sub recipient or any third party Proposer or firm.

2. False or Fraudulent Statements or Claims

The Proposer acknowledges as follows:

- a. The Proposer recognizes that the requirements of the Program Civil Remedies Act of 1986, as amended, 31 U.S.C. subsection 3801 et seq. and U.S. Department of Transportation regulations, "Program Fraud Civil Remedies," 49 CFR Part 31, apply to its activities in connection with the Project. In addition to other penalties that may apply, the Proposer or firm also acknowledges that if it makes a false, fictitious or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986, as amended, on the Proposer or firm to the extent the Federal Government deems appropriate.
- b. The Proposer or firm also acknowledges that if it makes a false, fictitious or fraudulent claim, statement, submission, or certification to the Federal Government in Connection with an urbanized area formula project financed with Federal assistance authorized by 49 U.S.C. section 5307, the Government reserves the right to impose on the Proposer or firm the penalties of 18 U.S.C. section 1001 and 49 U.S.C. section 5307 (n) (1), to the extent the Federal Government deems appropriate.

3. Contractor Work Hours and Safety Standards Act

The Proposer agrees to comply with and shall assure compliance of all subcontractors with applicable employee protection requirements for non-construction employees of section 102 of the Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. §§ 327 through 332, and implementing USDOL regulations, Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Non-construction Contracts Subject to the Contract Work Hours and Safety Standards Act), 29 C.F.R. Part 5.

- a. Overtime requirements. No Contractor or subcontractor contracting for any part of the Contract Work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- b. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (a) of this section the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (a) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (a) of this section.

- c. Withholding for unpaid wages and liquidated damages. The Procuring Agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract or any other Federal contract with the same prime Contractor, or any other federally-assisted contract subject to the Act, which is held by the same prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b) of this section.
- d. Subcontracts. The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this section.
- e. Payrolls and basic records. (i) Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

4. Access to Records and Reports

In accordance with 49 U.S.C. Section 5325(a) the Proposer agrees to provide the City of Abilene, the FTA Administrator, the U.S. Secretary of Transportation, the Comptroller General of the United States, or their duly authorized representatives access to all books, documents, papers and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.

The Proposer agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

The Proposer agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three (3) years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Proposer or firm agrees to maintain same until the City of Abilene, the FTA Administrator, the U.S. Secretary of Transportation, the Comptroller General of the United States, or any of their duly authorized representatives have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39(i)(11).

The Proposer agrees to include the above clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor or firm who will be subject to its provisions.

5. Federal Changes

Proposer or firm shall comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement (Form FTA MA (9) dated October, 2004) between the City of Abilene and FTA, as they may be amended or promulgated from time to time during the term of this contract. Proposer or firm's failure to so comply shall constitute a material breach of this contract.

6. Civil Rights Requirements

- a. Nondiscrimination in Federal Transit Programs – Proposer agrees to comply, and assures the compliance of each subcontractor or firm, with the provisions of 49 U.S.C. section 5332, which prohibits discrimination on the basis of race, color, creed, national origin, sex, or age, and prohibits discrimination in employment or business opportunity.
- b. Nondiscrimination – Title VI of the Civil Rights Act – Proposer agrees to comply, and assures the compliance of each subcontractor or firm, with all requirements prohibiting discrimination on the basis of race, color, or national origin of Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d *et seq.*, and U.S. DOT regulations, “Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of Civil Rights Act,” and 49 CFR Part 21, and any implementing requirements FTA may issue.
- c. Equal Employment Opportunity - The Proposer agrees to comply, and assures the compliance of each subcontractor or firm, with all requirements of Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, and 49 U.S.C. § 5332 and any implementing requirements FTA may issue. Those equal employment opportunity requirements include, but are not limited to, those listed in the Master Agreement (Form FTA MA (12) dated October, 2005) Section 12c (1) between the City of Abilene and FTA.
- d. Access Requirements for Persons with Disabilities – The Proposer agrees to comply with the requirements of 49 U.S.C. § 5301(d), which states the Federal policy that the elderly and persons with disabilities have the same right as other persons to use mass transportation service and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement that policy. The Proposer or firm also agrees to comply with all applicable requirements of section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of handicaps, with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §§ 12101 *et seq.*, which requires that accessible facilities and services be made available to persons with disabilities, including any subsequent amendments to that Act, and with the Architectural Barriers Act of 1968, as amended, 42 U.S.C. §§ 4151 *et seq.*, which requires that buildings and public accommodations be accessible to persons with disabilities, including any subsequent amendments to that Act. In addition, Proposer or firm agrees to comply with all applicable requirements of those regulations and any subsequent amendments listed in the Master Agreement (Form FTA MA (12) dated October, 2005) Section 12g between the City of Abilene and FTA.
- e. The Proposer also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by the City of Abilene, modified only if necessary to identify the affected parties.

7. Energy Conservation

Proposer agrees to comply with the mandatory energy efficiency standards and policies within the applicable State energy conservation plans issued in compliance with the Energy Policy and Conservation Act, 42 U.S.C. Subsection 6321 *et seq.*

8. Certification Regarding Debarment, Suspension and Other Responsibility Matters

- a. Proposer agrees to comply, and assures the compliance of all subcontractors, with Executive Orders Nos. 12549 and 12689, "Debarment and Suspension," 31 U.S.C. § 6101 note, and U.S. DOT regulations, "Government wide Debarment and Suspension (Nonprocurement)," within 49 CFR Part 29.
- b. By signing and submitting proposer, the prospective primary participant (i.e., Proposer) is providing a signed Certification Regarding Debarment, Suspension, and Other Responsibility Matters - Primary Covered transactions (Attachment D). The signed certification must be submitted as part of the proposal.
- c. The inability of a person to provide the required certification will result in denial of participation in this covered transaction.
- d. The certification in this clause is a material representation of fact upon which reliance is placed when the City of Abilene enters into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the City of Abilene may terminate this transaction for cause of default.
- e. The proposer shall provide immediate written notice to the City of Abilene if at any time they learn that their certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- f. The terms "covered transaction," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "Proposal," "and" "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549.
- g. The proposer agrees by submitting this proposal that should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized in writing by the City of Abilene.
- h. The proposer further agrees by submitting this Proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction," provided by the City of Abilene and included with these specifications, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
- i. A participant in a covered transaction must rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. Proposers shall submit with their proposals, if a lower tier participant is part of the proposer. Each participant must check the Nonprocurement List issued by U.S. General Services Administration.
- j. The proposer further agrees that it and its affected subcontractors will provide immediate written notice if at any time the Proposer learns that their subcontractor's certification was erroneous when submitted or has become erroneous because of changed circumstances.
- k. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

- I. Except for transactions authorized under subdivision (F) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to all remedies available to the Federal Government, the City of Abilene may terminate this transaction for cause or default.

9. Disputes, Breaches, Defaults, or Other Litigation

The Proposer agrees that FTA has a vested interest in the settlement of any dispute, breach, default, or litigation involving the project. Accordingly:

Notification to FTA – The City of Abilene shall notify FTA of any current or prospective major dispute, breach, default, or litigation that may affect the Federal Government’s interests in the project or the Federal Government’s administration or enforcement of Federal laws or regulations. If the City of Abilene seeks to name the Federal Government as a party to litigation for any reason, in any forum, the City of Abilene shall inform FTA before doing so.

Federal Interest in Recovery – The Federal Government retains the right to a proportionate share, based on the percentage of the Federal share awarded for the project, of proceeds derived from any third party recovery, except that the City of Abilene may return any liquidated damages recovered to its project account in lieu of returning the Federal share to the Government.

Enforcement – The City of Abilene agrees to pursue all legal rights provided within any third party contract.

FTA Concurrence – FTA reserves the right to concur in any compromise or settlement of any claim involving the project and the City of Abilene.

Alternative Dispute Resolution – FTA encourages the City of Abilene to use alternative dispute resolution procedures, as may be appropriate.

10. Buy America Pre-Award and Post-Delivery Audit Requirements

The Proposer agrees to comply with 49 U.S.C. § 5323(j), with FTA regulations, “Buy America Requirements,” 49 CFR Part 661, and with implementing guidance FTA may issue.

The equipment to be purchased with this Request for Proposal is subject to the Federal Transit Administration Buy America Requirements in 49 CFR 661. The proposer shall complete the Buy America Certification made part of this Request for Proposal, and certify that the products subject to this section used in Connection with this contract will comply with the requirements of Section 165 and the regulation as set forth. This certification must be submitted as part of the proposal. A Proposer shall submit to the Procuring Agency the appropriate Buy America certification with its response as described more fully below, except those subject to a general waiver. A proposal that is not accompanied by a completed Buy America certification will be rejected as non-responsive. This requirement does not apply to lower tier subcontractors. A proposal will be considered non-responsive if the Buy America Certificate is not submitted. A false certification is a criminal act and in violation of 18 U.S.C. 1001. Willful refusal to comply with the certification by a Contractor may lead to initiation of debarment proceedings under 49 CFR Part 29.

- a. The Proposer shall complete and submit a declaration certifying either compliance or noncompliance with Buy America. If the Contractor certifies compliance with Buy America, it shall submit documentation which lists: 1) component and subcomponent parts of the rolling stock to be purchased identified by manufacturer of the parts, their country of origin and costs; and 2) the location of the final assembly point for the rolling stock, including a description of the activities that will take place at the final assembly point and the cost of final assembly.
- b. Solicitation Specification Requirements: The Proposer shall submit evidence that it will be capable of meeting these specifications.

11. Disclosure of Lobbying Activity

- a. Proposer agrees that it will not use Federal assistance funds to support lobbying.
- b. Proposer agrees to comply, and assure the compliance of subcontractors, with U.S. DOT regulations, "New Restrictions on Lobbying," 49 CFR Part 20, modified as necessary by 31 U.S.C. § 1352.
- c. Proposer agrees to comply with Federal statutory provisions to the extent applicable prohibiting the use of Federal assistance funds for activities designed to influence Congress or a State legislature on legislation or appropriations, except through proper, official channels.
- d. No appropriated funds may be expended by the recipient of a federal contract, grant, loan, or cooperative agreement to pay any employee of any agency, member of congress, or an officer or employee of congress in connection with any of the following covered federal actions: the awarding of federal grants; the making of any federal loan; the entering into of any cooperative agreement; the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- e. Each proposer is required to review the above regulations and submit a certification of compliance with federal lobbying regulations. Pursuant to federal regulations, the Proposer is required to have all subcontractors providing more than \$100,000 in services to also complete this certification, to be included with the Proposal.

12. Termination

a. Termination for Convenience

The performance of work under this Contract may be terminated in accordance with this clause in whole, or from time to time in part, whenever the City of Abilene shall determine that such termination is in its best interest. Any such termination shall be effected by delivery to Contractor of a Notice of Termination specifying the extent to which performance of work under the Contract is terminated, and the date upon which such termination becomes effective.

After receipt of a notice of termination, and except as otherwise directed by the City of Abilene, Proposer or firm shall:

- i. stop work under the Contract on the date and to the extent specified in the Notice of Termination;
- ii. place no further orders or subcontracts for materials, services, or facilities, except as may be necessary for completion of such portion of the work under the Contract as is not terminated;
- iii. terminate all orders and subcontracts to the extent that they relate to the performance of work terminated by the Notice of Termination;
- iv. assign the City of Abilene, in the manner at the times, and to the extent directed the City of Abilene, all of the rights, title, and interest of Proposer or firm under the orders and subcontracts so terminated, in which case the City of Abilene shall have the right, in its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;
- v. settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the City of Abilene, to the extent he may require which approval or ratification shall be final for all the purposes of this clause;
- vi. use its best efforts to sell, in the manner, at the times, to the extent, and at the price(s) directed

- or authorized by the City of Abilene, any property of the types referred to above, provided, however, that Proposer or firm shall not be required to extend credit to any purchaser, and may acquire any such property under the conditions prescribed by and at a
- vii. price(s) approved by the City of Abilene, and provided further, that the proceeds of any such transfer or disposition shall be applied in reduction of any payments to be made by the City of Abilene to the Proposer or firm under this Contract or shall otherwise be credited to the price or cost of the work covered by this Contract or paid in such other manner as the City of Abilene may direct;
 - viii. complete performance of such part of the work as shall not have been terminated by the Notice of Termination; and take such action as may be necessary, or as the City of Abilene may direct, for the protection or preservation of the property related to this Contract, which is in the possession of Proposer or firm and in which the City of Abilene has or may acquire an interest.

Settlement of claims under this Termination for Convenience clause shall be in accordance with paragraphs (c) through (m) of the clause contained in the Federal Acquisition Regulation (FAR) Part 52, subpart 52.249-2, except that wherever the word "Government" or "Contracting Officer" appears it shall be deleted and the words "the City of Abilene" shall be substituted in lieu thereof.

b. Termination for Breach or Default

The City of Abilene may, by written notice of default to Proposer or firm, terminate the whole or any part of this Contract if Proposer or firm fails to make delivery of the supplies or to perform the services within the time specified herein or any extension thereof; or Proposer or firm fails to perform any of the other provisions of the Contract, or so fails to make progress as to endanger performance of this Contract in accordance with its terms, and in either of these two circumstances does not cure such failure within a period of ten (10) days (or such longer period as the City of Abilene may authorize in writing) after receipt of notice from the City of Abilene specifying such failure.

If the Contract is terminated in whole or in part for default, the City of Abilene may procure, upon such terms and in such manner as the City of Abilene may deem appropriate, supplies or services similar to those so terminated. Proposer or firm shall be liable to the City of Abilene for any excess costs for such similar supplies or services, and shall continue the performance of this Contract to the extent not terminated under the provisions of this clause.

Except with respect to defaults of subcontractor, Contractor shall not be liable for any excess costs if the failure to perform the Contract arises out of causes beyond the control and without the fault or negligence of Proposer or firm. Examples of such clauses include (1) Acts of God or of the public enemy, (2) acts of the Government in either its sovereign or contractual capacity, (3) fires, (4) floods, (5) epidemics, (6) quarantine restrictions, (7) strikes, (8) freight embargoes, and (9) unusually severe weather. In each instance, the failure to perform must be beyond the control and without the fault or negligence of Proposer or firm. If the failure to perform is caused by the default of a subcontractor or firm at any tier, and if such default arises out of causes beyond the control of Proposer or firm and subcontractor or firm, Proposer or firm shall not be liable for any excess costs for failure to perform, unless the supplies or services to be furnished by the subcontractor or firm were obtainable from other sources in sufficient time to permit Proposer or firm to meet the required delivery schedule.

In the event of any termination, the City of Abilene shall pay the agreed rate only for services delivered up to the date of termination. The City of Abilene has no obligation to Proposer or firm, of any kind, after the date of termination. Proposer or firm shall deliver all records, equipment, and materials to the City of Abilene within five (5) working days of the date of termination. Failure to agree will be a dispute under subsection 3-8, Disputes, Claims and Appeals. The City of Abilene may withhold from these amounts any sum the City of Abilene determines to be necessary to protect the City of Abilene against loss, because of outstanding liens or claims of former lien holders.

If, after Notice of Termination of this Contract is served under the provisions of this clause, it is determined for any reason that the Proposer or firm was not in default under the provisions of this clause, or that the default was excusable under the provisions of this clause, the rights and obligations of the parties shall be the same as if the Notice of Termination had been issued pursuant to termination for convenience of the City of Abilene.

The rights and remedies of the City of Abilene provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

c. Opportunity to Cure

The City of Abilene in its sole discretion may, in the case of a termination for breach or default, allow Proposer or firm thirty (30) days in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions

If Proposer or firm fails to remedy to the City of Abilene's satisfaction the breach or default or any of the terms, covenants, or conditions of this Contract within ten (10) days after receipt by Proposer or firm or written notice from the City of Abilene setting forth the nature of said breach or default, the City of Abilene shall have the right to terminate the Contract without any further obligation to Proposer or firm. Any such termination for default shall not in any way operate to preclude the City of Abilene from also pursuing all available remedies against Proposer or firm and its sureties for said breach or default.

d. Waiver of Remedies for any Breach

In the event that the City of Abilene elects to waive its remedies for any breach by Proposer or firm of any covenant, term or condition of this Contract, such waiver by the City of Abilene shall not limit the City of Abilene's remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.

13. Incorporation of FTA Terms

All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F, dated November 1, 2008, and are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. Contractor shall not perform any act, fail to perform any act, or refuse to comply with any the City of Abilene requests which would cause the City of Abilene to be in violation of the FTA terms and conditions.

14. Disadvantaged Business Enterprises

The Federal Fiscal Year goal has been set in an attempt to match projected procurements which are available to qualified disadvantaged businesses. These goals for Disadvantage Business Enterprises (DBE) have been established and set forth by the Department of Transportation Regulations 49 CFR Part 26, and is considered pertinent to any agreement resulting from this invitation for Proposal.

If a specific DBE goal is assigned to this Proposal, it will be clearly stated in this document and if the Contractor is found to have failed to exert sufficient, reasonable, and good faith efforts to involve DBE's in the work provided, FTA may declare the Contractor noncompliant and in breach of the contract. If a goal is not stated in the proposal documents, it will be understood that no specific goal is assigned to this Proposal.

- a. Policy – It is the policy of the Department of Transportation that Disadvantage Business Enterprises (DBE), as defined in 49 CFR Part 26, have an equal opportunity to receive and participate in the performance of Contracts financed in whole or in part with federal funds under this Agreement. Consequently, the DBE requirements of 49 CFR Part 26, apply to this Contract. It is also the policy to:

- Ensure nondiscrimination in the award and administration of DOT-assisted contracts;
- Create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
- Ensure that the DBE Program is narrowly tailored in accordance with applicable law;
- Ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs; and
- Help remove barriers to the participation of DBEs in DOT-assisted contracts.

The Contractor agrees to ensure that DBEs as defined in 49 CFR part 26, have the maximum opportunity to participate in whole or in part with federal funds provided under this Agreement. In this regard, the Contractor shall take all necessary and reasonable steps in accordance with the regulations to ensure that DBEs have the maximum opportunity to compete for and perform subcontracts. The Contractor shall not discriminate on the basis of race, color, national origin, religion, sex, age or physical handicap in the award and performance of subcontracts.

It is further the policy of the City of Abilene to promote the development and increase the participation of businesses owned and controlled by disadvantaged. DBE involvement in all phases of the City of Abilene procurement activities is encouraged.

- b. DBE obligation – The Contractor and its subcontractors agree to ensure that DBEs have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with federal funds provided under Agreement. In that regard, all Contractors and subcontractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 26 to ensure that DBEs have the maximum opportunity to compete for and perform contracts.
- c. Where the Contractor is found to have failed to exert sufficient reasonable and good faith efforts to involve DBEs in the work provided, the City of Abilene may declare the Contractor noncompliant and in breach of contract. Guidance concerning good faith efforts may be found in the Proposal and are also listed in the City of Abilene's Disadvantaged Business Enterprise Program document.
- d. The Contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the Contractor's receipt of payment for that work. In addition, the Contractor may not hold retainage from its subcontractors.
- e. The Contractor must promptly notify, whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The Contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of the City of Abilene.

15. Clean Water

The Proposer agrees to comply with all applicable Federal regulations and directives issued pursuant to the Clean Water Act, as amended, 33 U.S.C. §§ 1251 through 1378. Specifically:

- a. The Proposer agrees to protect underground sources of drinking water consistent with the provisions of Safe Drinking Water Act of 1974, as amended, 42 §§ 300f through 300j-6.
- b. The Proposer agrees to comply with the notice of violating facility provisions of Section 508 of the Clean Water Act, as amended, 33 U.S.C. § 1368, and facilitate compliance with Executive Order No. 11738, "Administration of the Clean Air Act and the Federal Water Control Act with Respect to Federal Contracts, Grants, or Loans, "42 U.S.C. § 7606 note.
- c. The Proposer agrees to report each violation to the Procuring Agency and understands and agrees

that the Procuring Agency will in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

- d. The Proposer shall include these requirements in each subcontract exceeding \$100,000, issued pursuant to this contract.

16. Clean Air

The Proposer agrees to comply and shall assure subcontractors' compliance with all applicable regulations, standards, or orders implementing the Clean Air Act, as amended, 42 U.S.C. §§ 7401 through 7671q. In addition:

- a. The Contractor agrees to comply with the applicable requirements of section 176(c) of the Clean Air Act 42 U.S.C. § 7506(c), consistent with the joint FHWA/FTA document, "Interim Guidance for Implementing Key SAFETEA-LU Provisions on Planning, Environment, and Air Quality for Joint FHWA/FTA Authorities," dated September 2, 2005, and any subsequent applicable Federal directives that may be issued; with U.S. EPA regulations, "Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Act", 40 C.F.R. Part 51, Subpart T; and "Determining Conformity of Federal Actions to State or Federal Implementation Plans" 40 C.F.R. Part 93. All equipment provided under this contract shall be designed and equipped to limit air pollution in accordance with EPA regulations.
- b. The Contractor agrees to comply with the following U.S. EPA regulations to the extent they are applicable to the work: "Control of Air Pollution from Motor Vehicles and Motor Vehicle Engines," 40 C.F.R. Part 85; "Control of Air Pollution from New and In-Use Motor Vehicles and New and In-Use Motor Vehicle Engines: Certification and Test Procedures," 40 C.F.R. Part 86; and "Fuel Economy of Motor Vehicles," 40 C.F.R. Part 600, and any revisions thereto.
- c. The Contractor agrees to comply with the notice of violating facility provisions of Section 306 of the Clean Air Act, as amended, 42 U.S.C. § 7414, and facilitate compliance with Executive Order No. 11738, "Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans," 42 U.S.C. § 7606 note.
- d. The Contractor shall include these requirements in each subcontract exceeding \$100,000; issued in relation to this contract.
- e. The Contractor shall report each violation to the Procuring Agency and understands and agrees that the Procuring Agency will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

17. Cargo Preference

The Proposer agrees:

To utilize privately owned United States-flag commercial vessels to ship at least 50 (fifty) percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to this Contract, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels.

To furnish within 20 (twenty) working days following the date of loading for shipments originating within the United States, or within 30 (thirty) working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described in the preceding paragraph to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the Procuring Agency (through the Vendor in the case of a subcontractor's bill-of-lading.)

To include these requirements in all subcontracts issued pursuant to this contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

18. Fly America

The Proposer agrees to comply with 49 U.S.C. 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 CFR Part 301-10, which provide that recipients and sub recipients of Federal funds and their Contractors are required to use U.S. Flag air carriers for U.S Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The Vendor agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

19. Access Requirements for Persons with Disabilities

The Recipient agrees to comply with the provisions of 49 U.S.C. § 5301(d), which sets forth the Federal policy that elderly persons and persons with disabilities have the same right as other persons to use transit service and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement transportation accessibility rights for elderly persons and persons with disabilities. The Recipient also agrees to comply with all applicable requirements of the following Federal laws and any subsequent amendments thereto: section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of handicap; the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §§ 12101 et seq., which requires accessible facilities and services to be made available to persons with disabilities; and the Architectural Barriers Act of 1968, as amended, 42 U.S.C. §§ 4151 et seq., which requires that buildings and public accommodations be accessible to persons with disabilities.

REQUIREMENTS FOR THE STATE OF TEXAS

1. Description of Work

The technical specifications section will describe in detail the product to be produced under this Proposal.

2. Proposal Set Up

A Proposal will be considered incomplete and invalid if it does not include all completed proposal schedules and certified forms.

3. Time of Commencement and Final Completion

The work to be performed shall be commenced on the date stipulated in the Notice to Proceed and final completion shall be achieved not later than the number of working days as stated in the Proposal.

4. Basis of Payment and Partial Payments

No advance or partial payment shall be made for the work furnished by Contractor pursuant to this Proposal.

The City will not pay the Contractor until the work is accepted and all required documentation delivered.

5. Vendor Work Hours and Safety Standards Act

The Proposer agrees to comply with and shall assure compliance of all subcontractors with applicable employee protection requirements for non-construction employees of section 102 of the Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. §§ 327 through 332, and implementing USDOL regulations, Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Non-construction Contracts Subject to the Contract Work Hours and Safety Standards Act), 29 C.F.R. Part 5.

- a. Overtime requirements. No Contractor or subcontractor contracting for any part of the Contract Work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- b. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (a) of this section the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (a) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (a) of this section.
- c. Withholding for unpaid wages and liquidated damages. The Procuring Agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract or any other Federal contract with the same prime Contractor, or any other federally-assisted contract subject to the Act, which is held by the same prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b) of this section.
- d. Subcontracts. The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for compliance by any subcontractor or

lower tier subcontractor with the clauses set forth in this section.

- e. Payrolls and basic records. (i) Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Vendor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Vendors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

GENERAL CONDITIONS

1. Changes in the Work

The City may at any time, as the need arises, order changes within the scope of the Work without invalidating the Proposal. If such changes increase or decrease the amount due under the Proposal Documents, or in the time required for performance of the Work, the City will issue a Change Order authorizing an equitable adjustment.

2. Changes to Proposal Price

After the contract is awarded, the Proposal Price may be changed only by a Change Order. The value of any Work covered by a Change Order or of any claim for increase or decrease in the Proposal price is determined by one or more of the following methods in the order of precedence listing below:

- a. Prices previously approved

3. Assignments

Neither the Contractor nor the City shall sell, transfer, assign or otherwise dispose of the Proposal or any portion thereof, or of any right, title, interest, or obligation, without written consent of the other party.

4. Subcontractors

The Contractor may utilize the services of specialty Subcontractors as is standard.

Nothing contained in this proposal creates any contractual relation between any Subcontractor and the City.

5. Priority of Interpretation

The Proposal Documents are complementary, and what is called for by one document shall be binding as if called for by all. In case of conflict between any of the Proposal Documents, priority of interpretation shall be in the following order:

- Change Orders issued after the date of the Proposal
- Proposal
- Addenda or Amendments issued before or at the time of the Proposal award
- Notice of Award and Notice to Proceed
- Technical Specifications
- Supplemental Conditions
- Special Conditions
- General Conditions
- Instructions to Proposers
- Invitation for Proposal

6. Severability

If any provisions of this Proposal are determined to be void or unenforceable by a court of competent jurisdiction, that determination does not affect any other provisions of the Proposal. If any provision is susceptible to more than one project, a provision which renders it valid must be used.

7. Verification of Employment Eligibility

The Vendor must comply with the Immigration Reform and Control Act (IRCA) by not knowingly obtaining labor or services of an unauthorized alien. The Vendor is solely responsible for verifying employment eligibility as required by IRCA.

8. Sales Tax

The City qualifies as an exempt agency, under the Texas Limited Sale, Excise and Use Tax Act (the "Tax Act"), and is not subject to any State or City sales taxes on materials incorporated into the project. The City will provide an exemption certificate to the Vendor. The Vendor must have a sales tax permit issued by the Comptroller of Public Accounts and must issue a resale certificate complying with the Tax Act, as amended,

when purchasing incorporated materials. The Vendor is responsible for any sales taxes applicable to equipment purchases, rentals, leases, consumable supplies which are not incorporated into the project, tangible personal property purchased for use in the performance of this Proposal and not completely consumed, or other taxable services used to perform this Proposal, or other taxes required by law in connection with this Project.

9. Report of Accident

The Contractor shall immediately report all accidents or incidents involving customers, personnel or damage to material, equipment and or the facility regarding this Contract to emergency first responders, if necessary, and to CityLink Management. The Contractor shall document incidents and accidents in writing and the report shall be forwarded to the CityLink Safety Manager(s) within twenty-four (24) hours or within two (2) working days if the accident or incident occurs on a non-business day. Copies of accident investigation reports of accidents as required shall be provided to the Safety Manager(s). The Contractor shall keep them advised on the status of any claims or legal actions filed against the Contractor involving this Contract, whether or not the City of Abilene/ CityLink is named in the action.

10. Performance Standards

In order to ensure a high standard of performance, services provided by the Contractor are to be operated in a manner that maximizes productivity without negatively impacting safety and service quality for eligible CityLink patrons. To assure quality and a high level of customer satisfaction, all performance standards shall be reviewed on an on-going basis and are subject to change as the City of Abilene's needs change. City of Abilene will utilize three performance standards.

- 1) On Time Performance
- 2) Preventable Accidents
- 3) Service Driver Complaint

On Time Performance is defined as the level of success, as a percentage rate, of the service remaining on schedule of the printed manifest. City of Abilene will require 90% in time performance from the contractor, continuous failure to meet this performance standard can result in sanctions and/or termination of the contract for cause.

Preventable Accidents are defined as *'any accident involving an organization vehicle which results in property damage and/or personal injury, regardless of who was injured, what property was damaged, to what extent or where it occurred, in which the driver in question failed to exercise every reasonable precaution to prevent the accident'*. City of Abilene/CityLink will have the performance standard of 1 preventable accident per 100,000 miles. Contractor remains above this performance guideline can result in sanctions and/or termination of the contract for cause.

Service Driver Complaints are defined as "customer dissatisfaction on a driver's behavior and/or actions or any or unsafe operation of the vehicle". Continuous and/or flagrant service driver complaints can result in the driver being suspended from servicing CityLink customer's and/or termination of the contract for cause.

11. Indemnity

The Contractor must indemnify, hold harmless, and defend the City, U.S. Department of Transportation, Texas Department of Transportation, Taylor county and all government funding agencies providing funds or services in connection with this project, from and against liability for any claims arising out of the Contractor's work and activities conducted in connection with this Contract, including but not limited to damages arising from the infringement of intellectual property rights of third parties.

The Contractor is an independent contractor and is not, with respect to its acts or omissions, an agent or employee of the City. Contractor must at all times exercise reasonable precautions on behalf of, and be solely responsible for, the safety of Contractor's employees while in the vicinity where the work is

being done. The City is not liable or responsible for the negligence or intentional acts or omissions of the Contractor or Contractor's employees.

The City assumes no responsibility or liability for damages which are directly or indirectly attributable to premise defects. Responsibility for all such defects is expressly assumed by the Contractor.

The City and Contractor must provide the other prompt and timely notice of any covered event which in any way affects or might affect the Contractor or City. The City has the right to compromise and defend the same to the extent of its own interests.

BOTH CITY AND CONTRACTOR EXPRESSLY INTEND THIS CONTRACT'S INDEMNITY PROVISION TO REQUIRE CONTRACTOR TO INDEMNIFY AND PROTECT THE CITY FROM THE CONSEQUENCES OF THE CITY'S OWN NEGLIGENCE WHILE CITY IS PARTICIPATING IN THIS CONTRACT, WHERE THAT NEGLIGENCE IS A CONCURRING CAUSE OF THE DAMAGES. THIS CONTRACT'S INDEMNITY PROVISION DOES NOT APPLY TO ANY CLAIM WHERE DAMAGE IS PROVEN TO RESULT FROM THE SOLE NEGLIGENCE OF THE CITY.

This indemnification shall survive termination or expiration of this Agreement.

PROPOSAL FORM

Date: _____

Proposal of _____, ("Proposer"), organized and existing under the laws of the

State of _____, doing business as _____
(corporation, partnership, or individual)

To: THE CITY OF ABILENE, TEXAS

Proposer offers to perform transportation services according to the Proposal Documents and at the prices stated in the Proposal Schedule.

Proposer certifies (if a joint Proposal, each party certifies as to its own organization) that this Proposal has been arrived at independently and without consultation, communication or agreement with any other Proposer or competitor as to any matters relating to this Proposal.

PROPOSAL AFFIDAVIT

The undersigned hereby declares that he/she has carefully read and examined the Advertisement, the Scope and Terms, the Specifications and Quality Assurance Requirements with all supporting certificates and affidavits for the provision of products specified at the prices stated in the Proposal.

SIGNED : _____

TITLE: _____

FIRM NAME: _____

Subscribed and sworn to before me this day of _____, 20____ Notary Public

My Commission Expires: _____

ADDENDUM PAGE

The undersigned acknowledges receipt of the following addenda to the Documents. (Give number and date of each)

Addendum Number_____Dated_____

Addendum Number_____Dated_____

Addendum Number_____Dated_____

Addendum Number_____Dated_____

Addendum Number_____Dated_____

Addendum Number_____Dated_____

Addendum Number_____Dated_____

Failure to acknowledge receipt of all addenda may cause the Proposal to be considered non-responsive to this Request for Proposals, which will require rejection of the Proposal.

Signature

Title

REQUEST FOR CLARIFICATION

This form is for informational purposes and does not modify the RFP. RFP modifications will only be made by means of issuing an addendum, not through this form. Proposers shall complete the areas above the shaded strip and attach any supporting documentation to this form. Requests shall be numbered sequentially by the Proposer to uniquely identify each request. **The deadline for submitting requests electronically to melisa.denson@abilenetx.com is 2:00 pm on August 2, 2017.**

Request Number: _____		Proposer: _____	
Request for: _____		Approved Equal _____ More Information or Clarification _____	
Specification or Requirement: RFP Section # _____			
RFP Page # _____		Title: _____	
Proposer's Request and Justification (list and attachments): 			
City of Abilene's Use Only			
Date Received: _____		Date of Reply: _____	
_____ Approved		_____ Clarification	
_____ Approved with Conditions		_____ More information Required	
_____ Denied			
_____ See Addendum # _____			
Reasons, Conditions, or Clarification: 			

DBE APPROVED CERTIFICATION

I hereby certify that the Proposer has complied with the requirements of 49 CFR 23.67, Participation by Disadvantaged Business Enterprises in DOT Programs, and that its goals have not been disapproved by the Federal Transit Administration.

Signature of Proposer's Authorized Official _____

Name and Title of Proposer's Authorized Official _____

Date _____

DEBARRED PROPOSERS STATEMENT

The Vendor, including any of its officers or holders of a controlling interest, is obligated to inform the City of Abilene whether or not it is or has been on any debarred Proposers' list maintained by the United States Government. Should the Vendor be included on such a list during the performance of this project, it shall so inform the City of Abilene.

_____ Have been listed on a United States Government debarred Proposer's list.

_____ Have not been listed on a United States Government debarred Proposers' list.

Date: _____

Signature: _____

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER INELIGIBILITY AND VOLUNTARY EXCLUSION

The prospective lower tier participant (Proposer) certifies, by submission of this Proposal, that neither it nor its "principals" as defined at 49 C.F.R. § 29.105(p) is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

If the prospective lower tier participant (Proposer) is unable to certify to the statement above, it shall attach an explanation, and indicate that it has done so, by placing an "X" in the following space

THE VENDOR, _____, CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF EACH STATEMENT OF ITS CERTIFICATION AND EXPLANATION, IF ANY. IN ADDITION, THE PROPOSER UNDERSTANDS AND AGREES THAT THE PROVISIONS OF 31 U.S.C. §§ 3801 ET SEQ. APPLY TO THIS CERTIFICATION AND EXPLANATION, IF ANY.

_____ Signature of the Proposer's Authorized Official

_____ Name and Title of the Proposer's Authorized Official

_____ Date

RESTRICTIONS ON LOBBYING CERTIFICATION

The Vendor certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in Connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in Connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form--LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, *et seq.*)]
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

[Note: Pursuant to 31 U.S.C. § 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.]

The Vendor, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Vendor understands and agrees that the provisions of 31 U.S.C. A 3801, *et seq.*, apply to this certification and disclosure, if any.

Signature of Vendor's Authorized Official _____

Name and Title of Vendor's Authorized Official _____

Date _____

STATEMENT OF PROPOSER'S QUALIFICATIONS

Answers to all questions must provide clear, comprehensive data that is not misleading. Attach additional sheets if necessary. A Proposer may submit additional information.

1. Name of Proposer and permanent main office address:

2. Date when organized under present name and State of incorporation (if applicable):

3. Former firm or trade names, with dates of operation for each name:

4. General character of work performed by your company:

5. If you have ever failed to complete any work awarded to you, state project location and reason(s), and give name and address of project owner.

6. If you have ever defaulted on a contract, state project location, amount of contract, reason(s) and give name and address of project owner.

7. List of similar projects successfully completed. Include amount of contract, type of work, date completed and name and address of owner. Attach additional page if needed.

8. List of current projects under contract. Include amount of contract, type of work, date completed and name and address of owner. Attach additional page if needed.

9. Upon request, fill out a detailed financial statement and furnish any other pertinent information required by the City.

Notary Public_____

My Commission expires_____, 20__

Proposer's E.I. Number_____(number used on Employer's Quarterly Federal Tax Return)

AFFIDAVIT OF NON-COLLUSION

I hereby swear (or affirm) under the penalty for perjury:

1. That I am the Proposer (if the Proposer is an individual), a partner in the Proposal (if the Proposer is a partnership), or an officer or employee of the Proposing corporation having authority to sign on its behalf (if the Proposer is a corporation);
2. That the attached Proposal(s) has been arrived at by the Proposer independently and have been submitted without collusion and without any agreement, understanding, or planned common course of action with any other Proposer or materials, supplies, equipment, or service described in the invitation to Proposal, designed to limit independent Proposals or competition;
3. That the contents of the Proposal(s) has not been communicated by the Proposer or its employees or agents to any person not an employee or agent of the Proposer or its surety on any bond furnished with the Proposal(s), and will not be communicated to any such person prior to the official opening of the Proposal(s); and
4. That I have fully informed myself regarding the accuracy of the statements made in the affidavit:

Signed _____

Firm Name _____

Subscribed and sworn to before me this _____ day of _____, 20__

PROPOSAL AMOUNT/ SCHEDULE OF ITEMS AND PRICES

The Contractor shall furnish all labor, tools, equipment, supervision, transportation, insurance, security, accounting, documentation, reports, and all other resources necessary to perform the CityLink Transportation Services complete, in strict compliance with the terms and conditions of this Contract,

CityLink Transit will pay the Contractor rates per trip basis performed. CityLink reserves the right to change or modify the amount of service trips to meet the demands of the service offered by CityLink Transit to the public. Service Trips are defined as the pick-up and drop-off of a CityLink customer as it is stated on the paper manifest. Average length of a service trip is 6.17 miles per customer.

CityLink Transit will determine and schedule the hours of operation for trips to be performed by the Contractor. The Contractor shall be reimbursed on a scheduled per trip basis. Trips begin when a customer boards the vehicle and ends when the customer arrives at the scheduled destination and off loads the vehicle. The Contractor shall be compensated ½ price of a schedule trip for no shows and/or cancellation of trip at the door.

Company Name: _____

Proposed Cost of Each Trip:

Year 1 - Effective Date of Contract through September 30, 2019	\$ _____
Year 2 – October 1, 2019 through September 30, 2020	\$ _____
Year 3 – October 1, 2020 through September 30, 2021	\$ _____
Year 4 – October 1, 2021 through September 30, 2022	\$ _____

Each Vehicle to be used for Contracted Trips:

Model/Year/Quantity _____

Each proposed vehicle must be inspected by CityLink/City of Abilene for interior and exterior cleanliness, mechanical reliability, damage, overall appearance prior to award of contract.

Signature of Company Official

Date

CERTIFICATE OF INSURANCE OR COPY OF POLICY

The Vendor must provide either four (4) copies of an approved Certificate of Insurance or four (4) copies of the insurance policy or policies which comply with insurance provisions of the Special Conditions of the Abilene's Standard Specifications for Construction adopted September, 2006. Insurance certificates will be incorporated into the contract.

NOTICE OF AWARD

TO: _____ DATE: _____

PROJECT DESCRIPTION:

The City of Abilene has considered your Proposal response to the Invitation for Proposals dated _____, 20__, for the project listed above.

The City of Abilene accepts your Proposal in the amount of _____.

The Instructions to Proposers require you to execute the Contract and furnish applicable bonds and insurance documents within 15 days from the date of this Notice of Award. If you fail to timely fulfill these obligations, the City is entitled to regard your failure as a forfeiture of any rights which might arise by the City's accepting your Proposal. Your failure entitles the City to collect on your Proposal Bond, to contract with another Proposer, and to all other rights as may be granted by law.

You must return a signed copy of this Notice of Award to the City.

ACCEPTANCE OF NOTICE

THE CITY OF ABILENE, TEXAS

Date: _____
Vendor acknowledges
receiving the Notice of Award.

By: _____
(Signature)

By: _____
(Signature)

Name-Typed or Printed

Title: _____

Name - Typed or Printed

Title: _____

Federal Tax ID #: _____